

STATE OF MICHIGAN

BEFORE THE JUDICIAL TENURE COMMISSION

COMPLAINT AGAINST:

HON. DAVID M. BRADFIELD  
Judge, 36<sup>th</sup> District Court  
Detroit, Michigan 48226

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FORMAL COMPLAINT NO. 66

DECISION AND RECOMMENDATION  
FOR DISCIPLINE

At a session of the Michigan Judicial Tenure  
Commission held on December 28, 2001,

PRESENT: Hon. William B. Murphy, Chair  
Hon. Theresa Doss, Vice-Chair  
Hon. Barry M. Grant, Secretary  
Henry Baskin, Esq.  
Carole Chiamp, Esq.  
Peter B. Fletcher  
Hon. Pamela R. Harwood  
Hon. James C. Kingsley  
James Mick Middaugh

The Judicial Tenure Commission of the State of Michigan (“Commission”) files this recommendation for discipline against Honorable David Martin Bradfield, Judge, 36<sup>th</sup> District Court, Wayne County, Michigan. This action is taken pursuant to the authority of the Commission under Article VI, §30 of the Michigan Constitution of 1963, as amended, and MCR 9.203.

The Commission conducted a preliminary investigation pursuant to MCR 9.207. As a result, it approved the filing of a formal complaint, which was done on October 5, 2000, and an amended complaint, which was filed on July 3, 2001. Having received Respondent's consent to this recommendation, the Commission finds Respondent engaged in conduct clearly in violation of the Code of Judicial Conduct and prejudicial to the administration of justice as set forth in the following paragraphs:

1. Respondent was a judge of the 36<sup>th</sup> District Court in Detroit, Michigan at all relevant times mentioned.

2. As a judge, Respondent is subject to all of the duties and responsibilities imposed on him by the Michigan Supreme Court, and is subject, at a minimum, to the standards for discipline set forth in MCR 9.104 and MCR 9.205.

3. The Commission has conducted a preliminary investigation of certain grievances filed against Respondent, which are identified as Grievance Nos. 98-11403, 98-11705, 99-12150, 99-12189, 99-12446, 99-12469, 00-12650, 00-12734, 00-12914, and 00-13004 (collectively referred to as "Investigated Grievances").

4. On March 24, 2000, the Commission provided notice to Respondent of the charges being made in six of the Investigated Grievances (98-11403, 98-11705, 99-12150, 99-12189, 99-12446, and 99-12469) pursuant to MCR 9.207(C), in what is commonly referred to as a 28-day letter.

5. At the conclusion of its preliminary investigation of the Investigated Grievances, after specifically considering the information and documentation provided by Respondent in response to the 28-day letters, the Commission authorized the issuance of Formal Complaint, which issued on October 5, 2000.

6. Respondent filed his answer to the Formal Complaint on October 31, 2000.

7. A second 28-day letter was sent to the Respondent on February 22, 2001 providing notice of the charges being made in four of the Investigated Grievances (Nos. 00-12650, 00-12734, 00-12914, and 00-13004).

8. Respondent stipulated to allow the Commission to amend the Formal Complaint, and the Master entered an order to that effect on June 25, 2001.

9. At the conclusion of its preliminary investigation of the Investigated Grievances, after specifically considering the information and documentation provided by Respondent in response to the 28-day letters, the Commission authorized the issuance of an Amended Formal Complaint, which issued on July 3, 2001.

10. Respondent filed his answer to the Amended Formal Complaint on December 4, 2001.

11. The Commission and the Respondent have engaged in negotiations to resolve this matter short of conducting formal proceedings. As a result of those negotiations, the Commission and Respondent agree as set forth below.

12. Respondent admits that he committed the following acts, that such acts constitute judicial misconduct, and that such conduct was wrongful:

A. On March 3, 1999, Respondent presided over the case of *People v Paul W. Hall*, 36<sup>th</sup> District Court No. 0393021, for review of a longstanding unpaid civil infraction: no valid operator's license in immediate possession.

- 1) Mr. Hall began to explain that the ticket had really been issued to his nephew, who had the same name.
- 2) Respondent admits that he refused to consider evidence or hear arguments regarding the identity of the defendant, was rude, and yelled at Hall without provocation:

THE COURT: Are you listening to me Mr. Hall. I don't buy it, Mr. Hall, is what I'm telling you, I don't buy that. You got it; \$65 bucks or else it remains open and it affects your driver's license. Do you want to pay it?

MR. HALL: Yeah, I want to pay it. Your Honor ---

THE COURT: A person would have to come back here three times, sir. I don't know any idiot that would come back here three times using a false name. So, it was you, sir.

MR. HALL: It was my nephew ---

THE COURT: Good, then it was your nephew. You keep thinking it was your nephew. You owe \$65 bucks. Have a seat if you want to pay ---

MR. HALL: Your honor, ---

THE COURT: Have a seat if you want to pay, sir. It's 12 years, 12 years. You think I'm going to buy that, hell no.

Hearing transcript, *People v Hall*, March 3, 1999, p 4

- 3) Respondent admits that his demeaning conduct toward Mr. Hall was wrong and improper.

B. On January 14, 2000, Respondent presided over the preliminary examination in *People v John D. Gaines*, 36<sup>th</sup> District Court No. 00-55021.

- 1) The defense attorney in that matter was Walter Pookrum, who had previously filed a Request for Investigation with the Commission, which resulted in the issuance of one of the Investigated Grievances (Grievance No. 99-12469).
- 2) As part of its investigation of that grievance, on December 10, 1999, the Commission sent Respondent a copy of the Request for Investigation and requested Respondent's comments on the allegations.

- 3) Respondent submitted his comments to the Commission on December 28, 1999.
- 4) On January 14, 2000, Mr. Pookrum moved to disqualify Respondent due to that pending grievance.
- 5) Respondent denied the motion, and also refused Mr. Pookrum's request to refer the matter to Chief Judge Atkins for reconsideration:

MR. POOKRUM: Then, I'd like an opportunity to appeal to the chief judge.

THE COURT: No, you don't have that right, sir. The motion is denied. You move on.

Preliminary examination transcript, January 14, 2000,  
*People v Gaines*, p. 3

- 6) Respondent's statement is in direct contradiction to MCR 2.003(C)(3)(a), which provides that "in a court having two or more judges, on the request of a party, the challenged judge *shall* refer the motion [to disqualify] to the chief judge, who shall decide the motion de novo." (Emphasis supplied).
- 7) Respondent, at the very least, should have known that Mr. Pookrum had the right to have the motion to

disqualify referred to the chief judge, but he wrongfully did not allow Mr. Pookrum to do so.

- 8) Respondent admits that his deliberate failure to comply with the dictates of MCR 2.003(C)(3)(a) was wrong and improper.

13. In addition to the acts listed in paragraph 12 which Respondent admits constitute misconduct, the Commission received Grievance Nos. 00-12650 and 00-12914 which allege that Respondent has a policy and practice of setting bonds for defendants who are charged with drug crimes based on the number of rocks of cocaine alleged to be in defendants' possession at the time of the arrest. Because Respondent has disputed these allegations, the Commission cannot base a recommendation for discipline on them. The Commission has decided, however, to dismiss these grievances based on Respondent's agreement to admit to the allegations in paragraph 12, his specific commitment to consider and articulate on the record the required factors for setting bonds, and also his agreement to allow attorneys to argue formally motions to reduce or increase bonds. The Commission accepts this resolution of these disputed grievances because this agreement provides the public and the bar a remedy to prevent any such future grievable conduct.

14. In consideration of Respondent's consent to discipline and his promises as to future conduct, the Commission agrees to dismiss with prejudice all other allegations of misconduct in the Amended Formal Complaint.

15. By consenting to this recommendation for discipline, Respondent expresses his deep regret for his conduct as set forth above, and for the resulting negative impact on the public perception of judges, the institutional integrity of the judiciary, and the administration of justice.

16. Respondent's conduct as admitted and described above constitutes:

- a) Misconduct in office as defined by Michigan Constitution 1963, Article VI, §30, as amended and MCR 9.205;
- b) Conduct clearly prejudicial to the administration of justice as defined by the Michigan Constitution 1963, Article VI, §30, as amended, and MCR 9.205(E);
- c) Failure to observe high standards of conduct so that the integrity and independence of the judiciary is preserved, contrary to the Code of Judicial Conduct, Canon 1;
- d) Irresponsible or improper conduct which erodes public confidence in the judiciary, in violation of the Code of Judicial Conduct, Canon 2A; and
- e) Failure to respect and observe the law and to conduct himself at all times in a manner which would enhance the public's confidence in the integrity and impartiality of the judiciary, contrary to the Code of Judicial Conduct, Canon 2B.



17. In determining an appropriate sanction in this matter, the Commission considered various relevant factors, including those set forth in *In re Brown*, 464 Mich 135, 138 (2001), as follows:

- A. Respondent's two admitted actions do not provide evidence of a pattern of misconduct.
- B. Respondent's admitted actions occurred on-the-bench, which is generally more serious than off-the-bench conduct.
- C. Respondent's actions are prejudicial to the administration of justice, as they involve Respondent's demeanor toward litigants and failure to follow the Michigan Court Rules.
- D. Respondent's admitted misconduct relating to *People v Hall* was spontaneous, and therefore less serious. His misconduct in *People v Gaines*, however, was more serious as it involved a deliberate disregard of the Michigan Court Rules with regard to an individual whom Respondent knew had initiated a grievance against him.
- E. Respondent's misconduct in *People v Hall* was more serious as it served to undermine the ability of the justice system to discover the truth regarding the Paul Hall's innocence in the

legal controversy. Respondent's conduct in *People v Gaines* had no such impact.

F. Respondent's conduct did not involve the unequal application of justice based on any protected personal characteristic.

18. In determining an appropriate sanction in this matter, the Commission is also mindful of the Supreme Court's desire for "proportionality" based on comparable conduct. Although this is a departure from the historic standard of disciplinary cases being evaluated on a case-by-case basis, and it is often difficult to compare current fact situations and recommendations with those of previous cases, the admitted misconduct presented in this matter is amenable to comparison. In addition, Respondent's prior discipline by the Michigan Supreme Court is relevant, as follows:

A. Respondent was disciplined by the Michigan Supreme Court as a result of an altercation in the parking lot of Fairlane Town Center, a shopping mall in Dearborn, Michigan, in 1994 (*In re Bradfield*, 448 Mich 1229 (1995)). Respondent accepted a master's conclusion that Respondent acted in disregard for a security officer's safety when, against the officer's direction, Respondent accelerated his car into a disputed parking space and struck the officer with his car. The Supreme Court

accepted the Commission's recommendation, and Respondent's consent, to a public censure. Respondent's conduct in *People v Hall* reflects a similar failure of Respondent to control his demeanor, and justifies a sanction greater than a public censure.

B. *In re Moore*, 464 Mich 98 (2001), is the most recent decision of the Michigan Supreme Court addressing the demeanor of a judge. Although the respondent judge received a six-month suspension, that judge's misconduct was significantly more widespread both in duration and in frequency. Throughout the proceedings, Judge Moore vehemently denied that he had done anything wrong. In the present matter, Respondent has acknowledged his misconduct, has expressed regret, and has consented to the proposed sanction.

C. In *Matter of Albano*, 384 A 2d 144 (NJ 1978), the New Jersey Supreme Court censured a judge who had engaged in conduct reflecting a lack of judicial demeanor, patience and understanding, as well as the repeated misapplication of law. Although that case involved multiple incidents of misconduct, as opposed to the two items conceded by the Respondent in

the present matter, no prior discipline had been imposed against the respondent judge in *Albano*.

D. *In the Matter of Platt*, 8 P 3d 686 (Kan 2000), concerned a judge's failure to follow disqualification procedures mandated by the state Code of Judicial Conduct. Although the underlying facts are not identical, it is noteworthy that in *Platt* the respondent judge, who had no prior history of discipline, was publicly censured for his failure to follow the appropriate procedures regarding the judicial disqualification process.

19. The Commission has considered the nature of Respondent's misconduct and the fact that he has been publicly censured on one prior occasion concerning his demeanor. It is also important to note that the Respondent has expressed regret for his actions and has expressed a willingness to work on controlling his conduct. After reviewing all the evidence, and in particular Respondent's history of one prior public censure by the Supreme Court, the Commission is convinced that the misconduct in this case calls for a sanction that includes a suspension.

**WHEREFORE**, upon resolution of the Michigan Judicial Tenure Commission, pursuant to MCR 9.221(C), and in conjunction with Respondent's admission to the acts of judicial misconduct set forth above and his agreement to

be disciplined, a copy of which is appended to this Decision and Recommendation as Exhibit 1, it is recommended that the Supreme Court of Michigan enter an order:

- (1) Publicly censuring Judge David Martin Bradfield; and
- (2) Suspending him from the performance of his judicial duties for a period of thirty (30) days without pay, effective the next business day following entry of the order.

In addition, Respondent agrees to:

- A. Undergo counseling and/or anger management and counseling as determined appropriate by a health care professional of Henry Ford Hospital Fairlane, until he has completed the counseling program, in which case the health care professional will provide a letter to the Commission expressing his/her opinion that Respondent has successfully completed the counseling program. The counseling will occur on a schedule as determined appropriate by the health care professional, who shall provide the Commission with quarterly reports detailing Respondent's attendance at those sessions. Respondent will request the health care professional in writing to convey that information to the Commission and will provide the Commission with a copy of that request;
- B. No longer conduct any off-the-record discussions or proceedings in his courtroom in landlord/tenant matters;
- C. Comply with MCR 2.003 and immediately refer any denied motion to disqualify Respondent to the Chief Judge as provided for by court rule;

- D. Automatically disqualify himself at the request of any of the attorneys who have filed the Requests for Investigations in the Investigated Grievances during the nine-month period immediately following the Commission's execution of Settlement Agreement, which should be deemed the same as the date of this Decision and Recommendation; and
- E. Consider and articulate on the record the required factors for setting bonds, and to allow attorneys to argue bond reductions or increases on the record.

### **JUDICIAL TENURE COMMISSION**

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HON. WILLIAM B. MURPHY

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HON. THERESA DOSS

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HENRY BASKIN, ESQ.

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HON. BARRY M. GRANT

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HON. PAMELA R. HARWOOD

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CAROLE CHIAMP, ESQ.

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HON. JAMES C. KINGSLEY

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JAMES MICK MIDDAUGH

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PETER B. FLETCHER